

State of Arizona  
House of Representatives  
Forty-seventh Legislature  
Second Regular Session  
2006

# **HOUSE BILL 2388**

AN ACT

AMENDING SECTION 13-1802, ARIZONA REVISED STATUTES; RELATING TO THEFT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2       Section 1. Section 13-1802, Arizona Revised Statutes, is amended to  
3 read:

4           13-1802. Theft: classification

5       A. A person commits theft if, without lawful authority, the person  
6 knowingly:

7           1. Controls property of another with the intent to deprive the other  
8 person of such property; or

9           2. Converts for an unauthorized term or use services or property of  
10 another entrusted to the defendant or placed in the defendant's possession  
11 for a limited, authorized term or use; or

12           3. Obtains services or property of another by means of any material  
13 misrepresentation with intent to deprive the other person of such property or  
14 services; or

15           4. Comes into control of lost, mislaid or misdelivered property of  
16 another under circumstances providing means of inquiry as to the true owner  
17 and appropriates such property to the person's own or another's use without  
18 reasonable efforts to notify the true owner; or

19           5. Controls property of another knowing or having reason to know that  
20 the property was stolen; or

21           6. Obtains services known to the defendant to be available only for  
22 compensation without paying or an agreement to pay the compensation or  
23 diverts another's services to the person's own or another's benefit without  
24 authority to do so.

25       B. A person commits theft if the person knowingly takes control,  
26 title, use or management of an incapacitated or vulnerable adult's assets or  
27 property through intimidation or deception, as defined in section 46-456,  
28 while acting in a position of trust and confidence and with the intent to  
29 deprive the incapacitated or vulnerable adult of the asset or property.

30       C. The inferences set forth in section 13-2305 apply to any  
31 prosecution under subsection A, paragraph 5 of this section.

32       D. At the conclusion of any grand jury proceeding, hearing or trial,  
33 the court shall preserve any trade secret that is admitted in evidence or any  
34 portion of a transcript that contains information relating to the trade  
35 secret pursuant to section 44-405.

36       E. Theft of property or services with a value of twenty-five thousand  
37 dollars or more is a class 2 felony. Theft of property or services with a  
38 value of three thousand dollars or more but less than twenty-five thousand  
39 dollars is a class 3 felony. Theft of property or services with a value of  
40 two thousand dollars or more but less than three thousand dollars is a class  
41 4 felony. Theft of property or services with a value of one thousand dollars  
42 or more but less than two thousand dollars is a class 5 felony. Theft of  
43 property or services with a value of two hundred fifty dollars or more but  
44 less than one thousand dollars is a class 6 felony. Theft of any property or  
45 services valued at less than two hundred fifty dollars is a class 1

1       misdemeanor, unless such property is taken from the person of another, ~~or~~ is  
2       a firearm or is a dog taken for the purpose of dog fighting in violation of  
3       section 13-2910.01, in which case the theft is a class 6 felony.

4           F. A person who is convicted of a violation of subsection A, paragraph  
5       1 or 3 of this section that involved property with a value of one hundred  
6       thousand dollars or more is not eligible for suspension of sentence,  
7       probation, pardon or release from confinement on any basis except pursuant to  
8       section 31-233, subsection A or B until the sentence imposed by the court has  
9       been served, the person is eligible for release pursuant to section  
10      41-1604.07 or the sentence is commuted.

11          G. IF A PERSON IS CONVICTED OF A VIOLATION OF THIS SECTION, AND THE  
12       OFFENSE INVOLVED THE THEFT OF CONSTRUCTION EQUIPMENT AND THE COURT SENTENCES  
13       THE DEFENDANT TO A TERM OF PROBATION, THE COURT SHALL ORDER THAT AS AN  
14       INITIAL CONDITION OF PROBATION THE DEFENDANT BE IMPRISONED IN THE COUNTY JAIL  
15       FOR A PERIOD OF NOT LESS THAN TWO HUNDRED SEVENTY DAYS. THIS JAIL TERM OF  
16       INCARCERATION SHALL NOT BE DEFERRED, DELETED OR OTHERWISE SUSPENDED AND SHALL  
17       COMMENCE ON THE DATE OF SENTENCING. THIS SUBSECTION DOES NOT APPLY TO  
18       PERSONS WHO ARE SENTENCED TO SERVE A PERIOD OF INCARCERATION IN THE STATE  
19       DEPARTMENT OF CORRECTIONS. FOR THE PURPOSES OF THIS SUBSECTION,  
20       "CONSTRUCTION EQUIPMENT" MEANS A MOTORIZED OR NONMOTORIZED ITEM OF EQUIPMENT  
21       THAT IS DESIGNED PRIMARILY FOR AND USED IN CONSTRUCTION OPERATIONS OR FOR  
22       BUILDING TRADE PURPOSES, THAT IS ONLY INCIDENTALLY OPERATED OR MOVED ON A  
23       HIGHWAY AND THAT HAS A MINIMUM VALUE OF TWENTY-FIVE THOUSAND DOLLARS OR MORE  
24       BASED ON A NATIONALLY RECOGNIZED PUBLICATION.